

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 15760 OF 2007(A)

PETITIONER:

K.BIJU, AGED 28 YEARS,
S/O.KARUNAKARAN, SHIBU BHAVAN, KANJIRAMKULAM
VILLAGE, KAZHIVOO MURI, NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY ITS
SECRETARY (HOME), GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.
2. THE COMMISSIONER OF POLICE,
THIRUVANANTHAPURAM.
3. THE ASST. COMMISSIONER OF POLICE,
SHANKUMUGHAM, THIRUVANANTHAPURAM DISTRICT.
4. THE CIRCLE INSPECTOR OF POLICE,
MEDICAL COLLEGE POLICE STATION, MEDICAL COLLEGE PO
THIRUVANANTHAPURAM DISTRICT.
5. THE SUB INSPECTOR OF POLICE,
THUMBA POLICE STATION, THIRUVANANTHAPURAM DIST.
6. THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.

:2:

7. THE ADDL.DISTRICT MAGISTRATE,
COLLECTORATE, VANCHIYOOR P.O., THIRUVANANTHAPURAM.

8. THE ASST. EXCISE COMMISSIONER,
THIRUVANANTHAPURAM.

9. RAJEEV.K., S/O.KARUNAKARAN,
KALAMUKKANPARA, KARIMANAL P.O., KULATHOOR,
THIRUVANANTHAPURAM DISTRICT.

10. R.SHAJI, S/O.REGHU,
KUZHIVILA THOPPIL VEEDU,
KARIMANAL P.O., KULATHOOR,
THIRUVANANTHAPURAM DISTRICT.

ADDITIONAL RESPONDENT NO:

11. VELI VARGHESE, AGED 50 YEARS, S/O. ABEL,
THAIVILAKOM, VALIYA VELI, THIRUVANANTHAPURAM,
COUNCILLOR OF POUNDUKADAVU WARD
OF THIRUVANANTHAPURAM CORPORATION.

ADV. SRI.A.M.MUKTHAR
R1 TO R8 BY GOVT. PLEADER SRI. P.A. SALIM.

(ADDL. RESPONDENT NO.11 IS IMPEADED AS PER ORDER IN
I.A. NO. 7065/2007 DATED 31.5.2007.)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 PHOTOCOPY OF THE TODDY SHOP LICENSE NO. 97/2007-08/TVPM IN RESPECT OF TODDY SHOP NO. 13/2007-08 ISSUED BY THE ASST. EXZCISE COMMISSIONER, THIRUVANANTHAPURAM ON 11.4.2007.

EXT.P2 PHOTOCOPY OF THE PETITION DATED 22.5.2007 SUBMITTED BEFORE RESPONDENTS 2 TO 7.

RESPONDENTS' EXHIBITS:

ANNEXURE A: COPY OF THE REPRESENTATION SUBMITTED BEFORE THE EXCISE COMMISSIONER.

ANNEXURE B COPY OF THE NOTICE PUBLISHED BY THE CHAIRMAN AND GENERAL CONVENOR OF THE ACTION COUNCIL.

ADDL. R1(a) COPY OF THE NOTICE ISSUED BY THE CORPORATION OF THIRUVANANTHAPURAM.EXT.ADDL. R1(b) COPY OF THE PRESS NOTE.

EXT.ADDL.R1(c) COPY OF THE PETITION SUBMITTED TO RESPONDENTS 1 TO 5.

/ TRUE COPY //

P.S. TO JUDGE.

KNC/-

P.R. RAMAN & K. HEMA, JJ.
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W.P.(C) NO. 15760 OF 2007
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DATED THIS, THE 5TH DAY OF JUNE, 2007.

J U D G M E N T

Raman, J.

Though this writ petition was filed complaining against police harassment and also seeking police protection, the learned counsel appearing for the petitioner submits that as of now, there is no police harassment. He only presses for the relief of police protection. According to him, petitioner is a toddy shop licensee as evidenced by Ext.P1 and that physical obstruction is caused to the running of the shop under the leadership of Respondents 9 and 10.

2. Though notice was served through special messenger, Respondents 9 and 10 did not appear and file any counter affidavit. An impleading petition is filed by the Councilor in the Poundukadavu Ward of Thiruvananthapuram Corporation who is the Chairman of the action council against the starting of the Toddy shop. The learned counsel appearing on his behalf submits that the shop is functioning in an un-numbered temporary shed and the petitioner has violated several conditions of the licence and Abkari Act and Rules. If so, he can pursue his remedies

before appropriate forum and any order passed by this Court will not affect his right. So long as Ext.P1 is in force and the petitioner is conducting the shop according to the terms and conditions of the licence, he is entitled to be protected without being obstructed by anybody. Copy of the proceedings of the Additional District Magistrate (7th respondent) was also placed on record by the learned Government Pleader, wherein it is found that there is no public institutions like temple, mosque, church etc. within the prohibited distance.

3. In the above circumstances, we direct respondents 4 and 5 to give necessary protection to the petitioner to run his shop as licensed in terms of Ext.P1 so long as it is in force. However, if the additional 11th respondent has any objection, he can pursue his remedies and the direction to afford police protection given by this Court will not adversely affect his right in pursuing such remedies and the authority disposing of such matters in accordance with law.

The writ petition is closed.

P.R. RAMAN,
(JUDGE)

K. HEMA,
(JUDGE)